

EXHIBIT B

1 CONFIDENTIAL

2 two months. The next job was -- I
3 worked as a paralegal at a law firm.

4 Q. Which law firm?

5 A. I can't remember.

6 Q. How long?

7 A. Maybe three months.

8 Q. Were you terminated?

9 A. No. The assignment
10 ended.

11 Q. When was that?

12 A. Either late 2000 or early
13 2001.

14 Q. Next job?

15 A. Oh, I worked at the
16 Deutsche Bank executive dining room.

17 Q. How long?

18 A. A month, maybe two.

19 Q. What did you do?

20 A. Something meaningful, but
21 I don't remember.

22 Q. Were you terminated?

23 A. No.

24 Q. Next job?

25 A. Starbucks.

1 CONFIDENTIAL

2 Q. When was that?

3 A. I was hired in early
4 November of 2001.

5 Q. What year?

6 A. 2001.

7 Q. And who hired you?

8 A. Ismael, I-S-M-A-E-L,
9 T-O-R-R-E-S, I think.

10 Q. And how did you learn
11 about the Starbucks job?

12 A. I was -- I was spending a
13 lot of time in a Starbucks, not the
14 one where he hired me, and I guess I
15 got to know some of the people who
16 worked there, and they -- they
17 said -- they recommended that I
18 apply.

19 Q. And who did you
20 interview, other than -- other than
21 with Ismael?

22 A. Like who interviewed me
23 at Starbucks?

24 Q. Who else, other than
25 Ismael?

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 - - - - -x

5 RAFAEL FOX, PAUL D'AURIA, AND JILL
6 SHWINER,

7
8 Plaintiffs,

9
10 Case No.:
11 19-CV-4650

12
13 -against-

14
15 STARBUCKS CORPORATION d/b/a STARBUCKS
16 COFFEE COMPANY,

17
18 Defendant.

19 - - - - -x

20 DEPOSITION OF RAFAEL FOX

21 LOCATION: Littler Mendelson

22 900 Third Avenue,
23 New York, New York 10022

24 DATE: August 12th, 2020.

25 - - - - -x

26
27 AMBRIA IANAZZI, RPR

28 JOB#: 182742

29
30 CONFIDENTIAL

CONFIDENTIAL

A. I believe that there was a second person interviewing me named Mary Ann; I don't know her last name.

Q. What was your first job there?

A. Barista.

Q. And how many hours were you working?

A. Anywhere from 20 to 40 hours a week.

Q. What was your first location at Starbucks that you worked at?

A. Nineteenth Street and Eighth Avenue.

Q. How long did you work there?

A. About two years.

Q. Were you a barista there?

A. Yes, but then I was promoted to shift supervisor.

Q. And when were you promoted?

1 CONFIDENTIAL

2 A. Maybe a year in; I don't
3 know.

4 Q. And your next position?

5 A. Shift supervisor.

6 Q. Where?

7 A. Oh, I was transferred to
8 the location at 23rd Street and
9 Eighth Avenue.

10 Q. How long were you there?

11 A. I would say, like,
12 approximately, ten months, could
13 have been more.

14 Q. Next position?

15 A. I was transferred to the
16 14th and Sixth location.

17 Q. How long were you there?

18 A. Same thing, probably --
19 not more than a year.

20 Q. Next position?

21 A. Sixth Street and Waverly,
22 and that's when I was promoted to
23 assistant manager.

24 Q. And when was that?

25 A. Approximately, 2006.

1 CONFIDENTIAL

2 Q. And how long were you the
3 assistant manager there?

4 A. At that location, I was
5 probably the assistant manager for
6 the same thing, about a year.

7 Q. Next position?

8 A. I was transferred to 17th
9 and Broadway.

10 Q. How long were you there?

11 A. Same thing; a little less
12 than a year, I think, and, also,
13 assistant manager.

14 Q. Did you receive any
15 promotions there?

16 A. Sort of at the end, I was
17 promoted to manager, and they
18 transferred me to another location.

19 Q. Which one?

20 A. Three New York Plaza.

21 Q. And how long were you
22 there?

23 A. Maybe a year and a half.

24 Q. And the next position?

25 A. I was a manager at 405

CONFIDENTIAL

Broadway.

Q. And, approximately, when was that?

A. Approximately, 2009.

Q. I'm sorry?

A. 2009.

Q. 2009?

A. Yeah.

Q. And how long would you hold that position?

A. I was there until October 2017.

Q. And then what happened?

A. Oh, what happened is, they told me the manager had been fired at -- at 180 West Broadway. They told me that the -- the partners there had been through a lot, that the store was not where it needs to be, and they said I would be perfect for the role.

Q. And --

A. Those are quotes. That's not verbatim.

1 CONFIDENTIAL

2 Q. Do you know why the
3 manager was fired from the position?

4 A. No.

5 Q. Did you ask?

6 A. I did.

7 Q. And --

8 A. I believe he said, "we
9 don't talk about that." That's all
10 I've ever gotten at Starbucks, if
11 you ask a pointed question like
12 that.

13 Q. So, what was your last
14 location, before leaving Starbucks?

15 A. 180 West Broadway.

16 Q. And how would you compare
17 the volume to the location at 405
18 Broadway?

19 A. The business flow is
20 different, but overall, the business
21 sales were comparable, like maybe
22 there would be some months where the
23 180 West Broadway store made more
24 revenue, and other months, the other
25 store would make more revenue.

1 CONFIDENTIAL

2 understanding of that policy?

3 A. That the Law had five
4 components. I was familiar with the
5 five components. I was familiar, as
6 I was taught by Starbucks. I'm
7 sorry. I want to make sure I answer
8 a specific question. Could you --

9 MR. WEBER: Could you
10 read that back, so we get it
11 clear?

12 THE COURT REPORTER: Sure

13 .

14 (Whereupon, the
15 following portion was
16 read back by the
17 reporter:

18 Q. "What was your
19 understanding of that
20 policy?")

21 MR. GRAFF: Objection,
22 vague.

23 BY MR. WEBER

24 Q. Do you want me to repeat
25 the question?

1 CONFIDENTIAL

2 A. Can you rephrase it?

3 Q. Yeah. Does Starbucks
4 have policies, relating to providing
5 partners with predictability pay for
6 scheduling changes?

7 A. Yes.

8 Q. And you were aware of
9 those policies, correct?

10 A. Yes; I was aware of those
11 policies.

12 Q. And do you recall when
13 you were alerted that New York City
14 had passed the Fair Workweek Law
15 regarding predictability pay?

16 A. I believe -- I might be
17 off by a day or two, but I'm going
18 to say 16th.

19 Q. October 16th?

20 A. Yeah. I mean, it could
21 have been October 12th. I don't
22 know. Mid October.

23 Q. Okay. And what year?

24 A. 2017.

25 Q. And do you know,

1 CONFIDENTIAL

2 Q. (Hanging.)

3 THE WITNESS:

4 (Hanging.)

5 A. (Perusing). Sorry, but
6 this is the exact same document as
7 the one before, and all the answers
8 are the same as I gave before
9 (indicating).

10 Q. I didn't hear you.

11 A. All my answers are the
12 same. This might be a different
13 version of the document, but it's
14 the exact same document you gave me
15 (indicating).

16 Q. Okay. But, you're saying
17 it's a duplicative document?

18 A. Sure.

19 Q. One second. Have you
20 received, while employed by
21 Starbucks, any complaints related to
22 your store's compliance with the New
23 York City Fair Workweek Law, or the
24 New York City Predictability
25 Workweek Law?

1 CONFIDENTIAL

2 A. Yes.

3 Q. When?

4 A. I received the Complaint
5 in the mail on January the 10th,
6 2018.

7 Q. And what was the
8 Complaint --

9 Where was the Complaint
10 from?

11 A. Oh, sorry. The New York
12 Department of Consumer Affairs.

13 Q. And what was it about?

14 A. It was an allegation that
15 our store was not in full compliance
16 with the Fair Workweek Legislation.

17 Q. And what did you do with
18 the Complaint?

19 A. I contacted Tim
20 Hutchinson right away, and I sent it
21 to him in some format. I think I
22 took pictures and emailed it or
23 something.

24 Q. And what happened after
25 that?

CONFIDENTIAL

1
2 A. He told me that -- oh,
3 I'm sorry. He -- as far as I know,
4 he forwarded it to Tina McDonald and
5 Bradley Jennison, and I remember Tim
6 sending me a text message on -- on
7 the morning of the 11th, that Tina
8 and Brad Jennison were going to come
9 to my store, I think he said at
10 1:30.

11 Q. That day?

12 A. That day, to talk to me.

13 Q. Showing you Exhibit 17.

14 MR. WEBER: It's
15 ESI005070.

16 (Whereupon, Bates
17 ESI005070 was marked
18 Plaintiff's Exhibit 17
19 for identification as of
20 August 12th, 2020.)

21 Q. (Hanging.)

22 THE WITNESS:

23 (Hanging.)

24 Q. I ask you to review that
25 document.

1 CONFIDENTIAL

2 A. (Witness complies).

3 Okay. You could go ahead.

4 Q. Did you receive this
5 document?

6 A. Yes.

7 Q. That's the Complaint you
8 were referring to a minute ago?

9 A. Yes.

10 Q. And do you recall when
11 you received it?

12 A. Yes; January 10th, 2018.

13 Q. And that's the date you
14 sent it to Tim?

15 A. I don't have a specific
16 memory, but I think so.

17 Q. Showing you Exhibit 18.

18 MR. WEBER: This one is
19 ESI005072.

20 (Whereupon, Bates
21 ESI005072 was marked
22 Plaintiff's Exhibit 18
23 for identification as of
24 August 12th, 2020.)

25 Q. (Handing.)

1 CONFIDENTIAL

2 mentioned before, right?

3 A. It is.

4 Q. And that's the same
5 document you sent -- forwarded to
6 Tim, correct?

7 A. It is, yeah.

8 Q. Did there come a time
9 when Tina audited your store?

10 A. I don't know whether I
11 would use the word, "audit."

12 Q. What would you use?

13 A. Well, I've seen her
14 audits from the document -- from
15 some of the documents, and what she
16 did was a little different, but it
17 was -- I guess it was a version of
18 an audit; sure.

19 Q. Did Anna work for
20 Starbucks at the time you sent it to
21 her?

22 A. No.

23 Q. So, when you -- I'm
24 sorry. I interrupted you. You
25 wouldn't call it an audit? What

1 CONFIDENTIAL

2 would you call it?

3 A. No; then I agreed with
4 you, it is an -- a version of an
5 audit.

6 Q. Okay. And what did she
7 find?

8 A. I'm sorry?

9 Q. What did -- what did Tina
10 find when she audited your store?
11 What was her determination?

12 A. Oh, um, well, there's two
13 things that strike out at me. She
14 believed that schedules were posted
15 late.

16 Q. I'm sorry. I didn't hear
17 you.

18 A. That schedules were
19 posted late.

20 Q. Posted late? Got it.

21 A. Not within the
22 time-period that they're supposed
23 to. And she also believed that logs
24 were missing in the -- or entries
25 were either incomplete, or -- or --

CONFIDENTIAL

I don't remember if she said,
"missing." I think she said,
"incomplete." I think it was called
the schedule change log, but I'm not
sure.

Q. What else did she find?

A. At the time of --

On January 11th, that's
all I could remember at the moment.

Q. Do you remember asking
about having Tina determine that
partners were not signing off on all
their hours?

A. Yes, I do.

Q. And she found that you
weren't posting the schedules on
time, correct?

A. She found that I wasn't
posting some of the schedules on
time. I -- I think some of her
findings were erroneous, but that's
what she found; sure.

Q. Which findings were
erroneous?

1 CONFIDENTIAL

2 A. I'd need to see -- one of
3 the documents I looked at when I
4 prepared was -- was her -- what she
5 called her, "notes," from that day.
6 So, in order to -- to answer your
7 question, I need to see the document
8 in front of me.

9 Q. If you felt -- strike
10 that.

11 Did you respond to Tina's
12 audit with any corrections that you
13 believe should have been made?

14 MR. GRAFF: Objection,
15 vague.

16 A. Can you rephrase that?

17 MR. WEBER: Could you
18 read that back, please?

19 THE COURT REPORTER: Yes.

20 (Whereupon, the
21 following portion was
22 read back by the
23 reporter:

24 "Q. Did you respond to
25 Tina's audit with any

1 CONFIDENTIAL

2 corrections that you
3 believe should have been
4 made?")

5 BY MR. WEBER

6 A. Yes.

7 Q. And what did you do?

8 A. I changed the -- I
9 started posting schedules earlier,
10 and with the time entry logs, I --
11 I -- perhaps I had a talk with every
12 partner, or most of -- the partners
13 that weren't doing their part in
14 filling it out, and -- and then a
15 few times a week, or maybe once
16 week, I don't remember, I would
17 highlight if there was any
18 opportunities in those logs.

19 Q. Is that in writing?

20 A. I don't know what you
21 mean.

22 Q. In other words, did you
23 respond to Tina's --

24 A. Yes.

25 Q. You did?

CONFIDENTIAL

posting with Tina?

A. When?

Q. I'm going to ask you --
that's my next question.

A. Oh.

Q. When did you?

A. I know that I wrote to
her on, I think, January 12, and I
think that's where I said that
sometimes schedules were taken off
the wall. And then I think that
when I met her in person on
January 11th, that's when I told her
I misunderstood that one line in the
training.

Q. And what did she say?

A. I know she corrected me,
but I -- I don't remember her exact
words.

Q. She made sure you
understood what the -- what was
required, right?

A. Yes.

Q. Did there come a time

1 CONFIDENTIAL

2 when Tina did a second audit of your
3 store?

4 A. I would put it as she got
5 more documents related to the store,
6 but not that she came and did a
7 second full audit; no.

8 Q. Explain what you mean by
9 that.

10 A. The -- the -- the Notice
11 of Investigation from the DCA
12 required data from the GLS
13 timekeeping system, and I was
14 running the report, printing the
15 reports, and giving her the reports.

16 And one thing that I also
17 gave her was -- I was actually able
18 to get all those schedules, because
19 when she came, some of the schedules
20 weren't even there; I didn't have
21 them attention.

22 So, my supervisor, Dira,
23 who had taken pictures of the
24 schedules, gave me the pictures, and
25 then I was able to give it to -- to

CONFIDENTIAL

Tina.

Q. She came back, and there was still violations of the Law, correct?

A. Are you asking me if there were additional violations, or if the violations still existed from her original audit?

Q. Which one?

A. I'm asking you. You're asking me --

Q. One, two, or both?

A. Okay. Are you asking me if --

Q. Let me make it easy.

A. Sure.

Q. Were the prior violations still in effect, one?

Two, were there new violations?

A. Well, the prior violations, she told me, "take no action." So, yes, they were, in fact.

1 CONFIDENTIAL

2 Q. Yes, the prior violations
3 were still in effect?

4 A. Yeah, because she told me
5 take no action, so I followed her
6 guidance.

7 Q. Okay. Go ahead.

8 A. Sorry. You want me to --

9 Q. Were there new
10 violations, in addition to not
11 correcting the current violations?

12 A. Not that I know of; no.

13 Q. You say the partners were
14 taking the schedules down. Where
15 were they posted?

16 A. On the refrigerator.

17 Q. And then how often were
18 they allegedly taken down by
19 partners?

20 A. Well, first of all, I
21 would say that I was very vague, but
22 if a schedule is missing, and I
23 don't see it on the refrigerator,
24 then I guess I can't really conclude
25 that a partner took it, even if

1 CONFIDENTIAL

2 Q. But she told you that you
3 had other issues besides the
4 posting, correct?

5 MR. GRAFF: Do --

6 A. Yes. She mentioned the
7 time entry logs.

8 Q. And what else did she
9 mention to you?

10 A. That's all I could
11 remember at this time.

12 Q. In your Complaint, in
13 Paragraph 87, you say that you were
14 reassigned to serve as an SM at
15 Starbucks location 180 West
16 Broadway, and you sought to learn
17 more about schedules and attendance
18 records for the employees now under
19 your management; do you remember
20 that?

21 A. Yes.

22 Q. So, you said you
23 conducted an independent audit of
24 the global labor system timekeeping
25 records; do you remember?

1 CONFIDENTIAL

2 A. I do.

3 Q. What do you mean by you,
4 "conducted an independent audit"?

5 A. Well, one thing that I
6 haven't experienced before is taking
7 over a store for a manager that
8 was -- that was fired. So,
9 normally, like if a manager hands
10 over a store to another manager,
11 they give you some information about
12 the store, partners, that kind of
13 thing, and Les, the district
14 manager, didn't do that either. So,
15 I pored through whatever online
16 information I could gather, and GLS
17 was one of the tools I used.

18 Q. What did you pore through
19 online? What did you see? What
20 steps did you take? What did you
21 find?

22 A. Sure. Well,
23 specifically, I was curious about,
24 like I guess, like who was coming
25 late to work, who was reliable; that

1 CONFIDENTIAL

2 kind of a thing, which is something
3 the old manager would normally tell
4 the new manager, but what I was
5 finding was missing -- missing time
6 punches. It looked like what I
7 thought was manipulation.

8 Q. Did you report that
9 missing time-punch manipulation?

10 A. Yes.

11 Q. Who did you report it do?

12 A. If you mean -- two people
13 at the minimum -- the first -- first
14 person was my shift supervisor,
15 Wesley Manley, and then the second
16 person was -- sorry, there's three.
17 Wrong. The second person is Les
18 Fable, and then the third person is
19 Tim Hutchinson.

20 Q. And did they respond to
21 you?

22 A. For Wesley, we paid
23 him -- I paid him right away because
24 I thought it was the right thing to
25 do. We went through all his time

CONFIDENTIAL

punches.

For Les, he wrote an email back to me with the title -- I titled it, "time-clock manipulation, West Broadway."

And he wrote me back, and I remember he said, "it's even more clear for me that you're the right guy for the job."

Q. You take that as a compliment, correct?

A. Yeah.

Q. Thought you were doing a good job trying to make sure there was compliance with the laws and the policies?

A. Yes.

Q. Other than the -- I think it was an email you had sent, any other record that you have with that independent audit?

A. Yes.

Q. What is that?

A. In November, I think

CONFIDENTIAL

19th, I wanted to see whether -- you see, I don't have a record of it, but I gave Tim about five pages of like -- I made my own spreadsheets because I don't -- I didn't know how to do Excel. I didn't have a record of that, but about two weeks after that, I wanted to check if he paid the people. So, I looked at someone named Kioshi Atkinson (phonetic), and I saw that Tim hadn't paid Kioshi, and I took a -- I either took a screenshot, or a photo, so that way I could capture the time on it, the timestamp.

Q. And you've produced that?

A. I have, but it doesn't have the -- the -- like the way it's produced with all the pictures, it's not like all the pictures have a timestamp on it, but I have my iPod Touch still, which you could see the time and date on that picture --

Q. I'm having a hard time

1 CONFIDENTIAL

2 hearing you.

3 A. It's produced, but the
4 timestamp isn't on each picture. I
5 could show you guys on my iPod Touch
6 when I --

7 Q. Okay.

8 A. -- took this picture, but
9 I don't have it on me.

10 Q. All right. So, maybe you
11 could produce that, and I'll copy
12 that.

13 A. How would you like the
14 timestamp? How do you do that?

15 MR. WEBER: We'll take a
16 look at it --

17 MR. GRAFF: I think it's
18 better for Counsel to follow up
19 on it.

20 You can follow up in
21 writing. We'll take it under
22 advisement, and get you anything
23 you're entitled to --

24 MR. WEBER: Okay.

25 Q. You said in your

1 CONFIDENTIAL

2 Complaint, Paragraph 89, you
3 discovered that several employees
4 performed hours of work without pay
5 in the weeks prior to your
6 assignment at that location; do you
7 remember that?

8 A. Is that an exact quote?

9 Q. I'm summarizing it,
10 but --

11 A. Okay.

12 Q. -- I'll give you the
13 exact words.

14 A. Oh, yes. Yes. Sorry.
15 You're absolutely right.

16 Q. Okay.

17 A. Sorry.

18 Q. Which employees are you
19 referring to?

20 A. Well, originally, I -- I
21 did report this twice to the first
22 DM.

23 Q. The question is, which
24 named employees? That's the
25 question.

1 CONFIDENTIAL

2 A. Well, there's 31 and I
3 can't remember.

4 Q. Okay.

5 A. I can't remember --

6 Q. So, you reported 31?

7 A. Could be 32. I don't
8 know. Around that.

9 Q. Okay. And you reported
10 to whom?

11 A. First, I reported the,
12 approximately, ten people or so that
13 weren't paid correctly to district
14 manager Les Fable, and then within a
15 couple of days of Tim taking over as
16 the district manager, I reported to
17 him the 31 total.

18 Q. And why were you looking
19 into this?

20 A. Well, the original one I
21 told you, unless you want me to tell
22 you again. But, as far as why I was
23 looking at other stores through the
24 computer is because I was thanked by
25 Les for the first time. Like you

1 CONFIDENTIAL

2 said, I enjoyed the compliment. And
3 for some reason, I got the hunch
4 that if this was happening at one
5 store, it'd be happening at more
6 stores, and I thought I could help.

7 Q. Nobody told you to do
8 this?

9 A. No.

10 Q. You did it on your own?

11 A. Yes.

12 Q. And did you believe that
13 this was a violation of the
14 Starbucks policies?

15 MR. GRAFF: Objection,
16 vague.

17 A. No, not at all.

18 Q. What did you --

19 You thought it was fine
20 what you found about not paying 31
21 employees?

22 MR. GRAFF: Objection,
23 misstates the testimony.

24 Q. You can answer.

25 A. Did I -- can you repeat

CONFIDENTIAL

the question?

Q. Yeah. I'll rephrase it.

A. Thank you.

Q. On your own, you did an investigation? You found that 31 employees were not being paid properly, correct?

A. Yes.

Q. Was that failure to pay them properly a violation of Starbucks policy?

A. Yes.

Q. That wasn't so hard; was it?

What was the policy being violated?

A. Time worked equals time paid.

Q. Did anybody comment on your analysis of whether or not these people were paid properly?

A. Yes.

Q. Who?

A. Tim.

1 CONFIDENTIAL

2 Q. What did he say?

3 A. He said a few things. He
4 said -- one thing I remember is he
5 said how could I be right. Wouldn't
6 these partners have complained,
7 if -- if anything -- if what you say
8 is true? That was one thing.

9 Q. Okay. Tell me your
10 response, if any.

11 A. I don't remember my
12 response.

13 Q. The next thing you said?

14 A. One second. Let me just
15 think if I did say a response.

16 Q. Okay.

17 A. Oh, I told him that --
18 that Wesley Manley, the -- the other
19 person, the shift supervisor, said
20 that he suspected that the manager
21 before me Will was stealing, and he
22 said he was too afraid because he
23 thought that Will would have fired
24 him.

25 Q. Anything else?

1 CONFIDENTIAL

2 A. Yes. Well, when you say,
3 "anything else," I guess I'll tell
4 you more what Tim said.

5 Q. That's my question.

6 A. Yeah. He said that -- he
7 said that the DMS do regular audits,
8 and how could I find something
9 that -- that the DMS don't find on
10 these audits? I could give you an
11 answer, if you want what I told him.

12 Q. What did you tell them?

13 A. I told him that when the
14 DM does an audit, they only check
15 the Daily Record Books. They don't
16 go into the GOS, and -- like I did.
17 So, I consider it -- I think I told
18 him I consider it an empty -- a
19 meaningless audit, if you're just
20 checking the book, and you're not
21 also checking the computer.

22 Q. Who did you say that to?

23 A. Tim.

24 Q. Was he upset with that
25 comment?

1 CONFIDENTIAL

2 A. I don't know if he was
3 upset.

4 Q. Well, do you think he was
5 happy that you brought this to his
6 attention?

7 A. My impression was that --
8 that -- I wouldn't be able to tell
9 you, without guessing.

10 Q. You don't have a --

11 A. A --

12 Q. -- a thought about his
13 reaction?

14 A. His reaction, if I had to
15 use one word, I would say
16 skepticism, but I left the
17 conversation happy because he
18 mentioned that he was going to
19 investigate with another DM called
20 Carol Wong, W-O-N-G; I think that's
21 her name. Carol, W-O-N-G; I'm not
22 sure that's her name. And he said
23 she was an expert in GLS, and he
24 said she was kind of new to it, and
25 then he also said he would bring it

1 CONFIDENTIAL

2 to the attention of Carla, who --

3 Q. Who?

4 A. Carla, who is the
5 regional director and that made me
6 happy.

7 Q. Anything else that you --

8 A. Yeah.

9 Q. -- that he said?

10 A. Nothing else he said, but
11 I could remember a few things that I
12 said.

13 Q. Go ahead.

14 A. I told him that -- I told
15 him that I was worried about being a
16 whistleblower. I told him that I
17 had to -- I reported something once
18 in the past to a -- to a place I
19 worked for, and then -- it -- it was
20 one of the temp jobs that we talked
21 about. I wasn't fired, but with a
22 temp job, it would say the
23 assignment's ending.

24 It was at the law firm,
25 and the other paralegal temps were

1 CONFIDENTIAL

2 and substance of his comments?

3 A. No.

4 Q. Did you put your concerns
5 about being a whistleblower in
6 writing?

7 A. Hm -- wait, not that I
8 can recall at this time.

9 Q. Did you call any
10 800-number the company had to report
11 your concerns?

12 A. No, but I do have a
13 memory related to that, if you're
14 interested.

15 Q. And what is that memory?

16 A. Someone from HR called me
17 in a -- in October 2018, and they
18 asked me a whole bunch of questions;
19 if the previous district manager had
20 ever asked me to -- all that's
21 coming to my head is, "do something
22 bad with time" -- with -- I don't
23 remember, but they -- but they said
24 afterwards, "if you remember
25 anything" -- they wouldn't tell me

1 CONFIDENTIAL

2 A. Well, in relation to --
3 in relation to Starbucks, I said to
4 him, "what happened?" You know,
5 just in two words, and he replied
6 back the name of the person who made
7 the complaint against me.

8 Q. Say that again.

9 A. He replied back the name
10 of the person who made the complaint
11 against me to the DCA.

12 Q. Who is that?

13 A. Stella Morgan.

14 Q. And what was the
15 complaint?

16 A. There's notes of her
17 intake. I can't remember off the
18 top of my head.

19 Q. Generally?

20 A. Generally, she said
21 that -- there's something called a
22 Good-Faith Estimate Form, and when
23 I -- when we filled it out in late
24 November, in good faith, I thought
25 she was, you know, going to have

CONFIDENTIAL

maybe 20 to 30 hours or something,
and then our sales multiplied in
December, and it was a new store. I
didn't know that.

So, when I made the
schedules, I had to go with, like --
the computer says, "this is how many
hours you have." And her --
everyone's hours dipped below their
good-faith estimate, which I put in.
So, they didn't understand that.

They didn't know the
mechanics of -- and that was one of
her complaints. I think, like you
said, I think -- I mean, you said
it, so I believe you that -- that
she said schedules were missing, I
think. And I think she said that
schedules weren't posted, the 14
days notice, and then I think there
was also something she mentioned
about, like tips or something, about
me not -- I don't remember at this
time.

1 CONFIDENTIAL

2 additional monies, correct?

3 A. Approximately.

4 Q. And you only changed

5 Mr. Manly's, right?

6 A. Yes.

7 Q. And why didn't you change

8 the other 30?

9 A. First of all, because Tim

10 said to hold off, and he was

11 skeptical that I was even correct on

12 that they were actually not paid,

13 because --

14 Q. What did he say to you?

15 A. He said -- I'll remind

16 you, because I said it, but he said,

17 "If DMs are auditing the stores

18 constantly, how come you figured it

19 out and not them?" Something along

20 those lines.

21 Q. Right.

22 A. And he also said, "if you

23 are right, then why weren't these

24 employees complaining?"

25 Q. Other than Tim, did you

1 CONFIDENTIAL

2 share with anybody else your
3 concerns?

4 A. Well, other than Tim,
5 Wesley Manley, and Les- -- Les,
6 the -- I call him, "DM Les," Les
7 Fable.

8 MR. GRAFF: Fable.

9 A. I --

10 Q. Those were the three
11 people that knew about the retro pay
12 issue?

13 A. As far as I remember at
14 this time.

15 Q. Okay. Do you know if
16 Starbucks had a policy regarding
17 wage-an-hour retro pay?

18 A. The only policy I know of
19 is time worked equals time paid, but
20 I don't know if some other policy
21 would have --

22 Q. Other than the complaints
23 you've made orally, is there any
24 written complaints that you've made
25 about this?

1 CONFIDENTIAL

2 probably thought I would point the
3 finger at Carla Ruffin, and maybe
4 Tim Hutchinson because --

5 Q. Maybe?

6 A. Yeah. Well, I think that
7 she thought that because, in my
8 opinion, all of these things
9 happened under their watch. You
10 know, at this point, I -- I don't
11 know for a fact whether or not Carla
12 and Tim purchased a bunch of
13 pesticides and planted them around
14 the workplace, but I could see them
15 thinking it was a threat that --
16 that I had covered something that
17 happened while they' were in charge.
18 Yeah, I'll leave it at that.

19 Q. Good. Didn't Tina tell
20 you to speak with your DM about
21 these issues?

22 A. She did.

23 Q. And you did, right?

24 A. I did not speak to --

25 Q. You did not, but she did

1 CONFIDENTIAL

2 tell you that, right?

3 A. She did.

4 Q. During your employment at
5 Starbucks, did you ever meet anyone
6 who worked for the company that Jill
7 and Paul worked for?

8 A. Once I met -- I met Jill.

9 Q. When?

10 A. Pure guess, 2015.

11 Q. 2015?

12 A. Yeah.

13 Q. And where'd you meet her?

14 A. At my location.

15 Q. Where you were working at
16 the time?

17 A. Yeah.

18 Q. And how did you come
19 about meeting her?

20 A. She was doing some kind
21 of pest control issue, but I can't
22 remember what.

23 Q. You talked to her?

24 A. Yes.

25 Q. What did you say?

1 CONFIDENTIAL

2 and maybe Tina McDonald to give them
3 information regarding any possible
4 violations.

5 Q. Do you know how they
6 originally --

7 Do you know if this is
8 the only complaint that was filed,
9 and if so, do you know who filed it?

10 A. I do. And I do, yes. I
11 believe in probably the third week
12 of December, if memory serves,
13 December 21st, Stella Morgan filed a
14 complaint with the DCA.

15 Q. And who is Stella Morgan?

16 A. Stella Morgan was a
17 barista at 180 West Broadway.

18 Q. And did you know her
19 prior to December 21st?

20 A. Yes.

21 Q. How did you know her?

22 A. When I became the manager
23 of that location, I think I met her
24 on the first day; I think
25 October 11th, 2017.

1 CONFIDENTIAL

2 Q. Did she discuss that she
3 was going to file a complaint with
4 the DCA with you?

5 A. No.

6 Q. Did you know she was
7 going to file a complaint before she
8 filed it?

9 A. No.

10 Q. Did you speak to her
11 after she filed the complaint?

12 A. Not about that.

13 Q. What did you talk to her
14 about?

15 A. She requested a transfer
16 for more hours and I helped her
17 obtain a transfer.

18 Q. And where did you
19 transfer her?

20 A. I think that the transfer
21 took place after I left, but I think
22 it was Broadway and Barclay, but I'm
23 not sure.

24 Q. By the way, do you know
25 the outcome of the DCA Complaint

1 CONFIDENTIAL

2 filed and any findings?

3 A. I've read it. Sure.

4 Q. What did it say?

5 A. Oh boy, top of my head --
6 I think that they found that the
7 schedules were posted late, that
8 some of the partners were owed
9 money, and I -- I believe that they
10 found -- that some partners, from
11 the time logs, were also owed money,
12 and that -- I believe that's it, but
13 I'm not sure.

14 Q. Have you talked to Stella
15 Morgan, since you left the company?

16 A. No.

17 Q. Do you know if your
18 girlfriend has discussed your claims
19 with the person she works for?

20 A. Not that I'm aware of.

21 Q. Okay. Did she ever share
22 with you that she was going to
23 discuss your claims with Helen?

24 A. No.

25 Q. Are you sure about that?

Notice of Separation

U.S. Retail

Fox_v_Starbucks_Exhibit 25
Plaintiff
Rafael Fox - 182742
08/12/2020(RG)

Partner Name:	Rafael Fox	Date Delivered:	2/6/2018
Partner Number:	1060932	Store Number:	15751
Manager's Name:	Timothy Hutchinson		

Statement of Situation

Manager's Statement: Describe the circumstances that led to the decision to separate the partner from employment.

This document serves a Notice of Separation for Rafael Fox for failure to execute in the Store Manager role as it pertains to adhering to Company Policy, New York City Legislation and Living our Mission and Values.

SM Fox failed to comply with the terms of the NYC Fair Work Week Law, including but not limited to posting schedules two weeks out, maintaining an updated Schedule Change Log and responding to internal partners who expressed interest in available shifts. In addition, SM Fox, failed to pay partner Predictability Pay after seeking guidance and being told that payment should be processed.

When initially questioned about his compliance with components of the law, SM Fox was not transparent and truthful about existing violations.

As a Store Manager, you are expected to act in a manner consistent with Starbucks Mission & Values; SM Fox failed to connect with transparency, exhibit integrity in his actions and comply with both Company policy and NYC legislation.

SM Rafael Fox is separated from Starbucks Coffee Company effective immediately.

Signatures

Manager Signature

Witness Signature (if applicable)

2/6/18

Date delivered

2/6/18

Date delivered

Rafael Fox

Name (please print)

AMANDA PERSTAC

Name (please print)

1060932

Partner #

1304128

Partner #

Partner: The above has been discussed with me by my manager. I understand my signature does not necessarily imply agreement, but acknowledges receipt of this form.

Partner Signature

2-8-18

Date delivered

Tim Hutchinson

Name (please print)

AMANDA

Partner #

Partner: For information regarding the impact of your separation on your benefits and other aspects of your employment, please refer to the Partner Separation FAQ – US Retail (available from your manager).

Manager: Print two copies of this form. Provide one signed copy to the partner and retain one signed copy in the store partner file.